

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Constitution Petition No. D-1788 of 2023**

*(Sarfraz Ali Abro Vs. Province of Sindh & others)*

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
-----------------	-------------------------------

**Before;**

*Adnan-ul-Karim Memon, J;*  
*Muhammad Abdur Rahman, J;*

**Date of hearing and order: 30-04-2024.**

Mr. Achar Khan Gabol, advocate for the petitioner.  
Mr. Ali Raza Baloch, Assistant Advocate General, Sindh.

\*\*\*\*\*

**ORDER.**

**Adnan-ul-Karim Memon J:-** Through the instant petition, the petitioner seeks direction for respondent-Home Department Government of Sindh to appoint him against deceased quota in terms of Rule 11-A of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 and dicta laid down by the Supreme Court in the case of *Province of Sindh Vs. Muhammad Taqi Shah (2018 SCMR 1607)*. Petitioner has premised his case on the ground that his father Nizamuddin Abro was serving as O.G Warder in respondent-department and was posted at Central Prison Sukkur, who during service passed away on 29-08-2012; the petitioner at the time of death of his father was minor and after attaining the age of majority in the year 2021 and preparation of all the relevant documents, he moved application to the respondents for his appointment against the quota reserved for deceased Civil Servants; but respondent No. 2 through letter dated 22-04-2023 has denied to appoint the petitioner against the deceased quota on the ground that his case does not cover under the existing rules for appointment against deceased quota as he failed to apply within period of two years after death of his father in the year 2012.

We have heard the parties and perused the material available on record.

Prima facie this is apathy on the part of the respondent-department as this lis has been pending since 2023 and there is no progress in the matter; as such we are compelled to hear the learned counsel for the petitioner and learned AAG on the subject issue without further delay.

At this stage, we put the question to the learned AAG as to why the petitioner has not been considered for the subject post against the quota reserved for deceased Civil Servants, he simply said that this is a policy matter and the Government has not considered his case for such appointment on any ministerial post and the same could only be filled as per recruitment Rules and not otherwise. However, he submitted that petitioner's father passed away in 2012 and petitioner applied for the subject post at the belated stage, in the year 2021 and he ought to have applied within two years from the date when his father passed away as such, he is not entitled for the subject post.

We do not agree with the reasoning of the learned AAG on the aforesaid proposition for the reason that petitioner was minor at the time of the death of his father as per record and as and when he reached the age of majority, he applied for the post of ministerial nature. It has been observed that for a minor, legal heir of deceased Civil Servant, the period of two years to apply for appointment on deceased quota would start after he/she attains the majority. This proposition has not been disputed by the learned AAG Sindh. Additionally Rule 11-A as discussed *Supra* is clear in its terms and needs no further deliberation on our part.

Prima facie the action of the respondent department does not align with the law laid down by the Supreme Court of Pakistan on the subject issue and the petitioner has been subjected to the irony of the department which is a hardship as his father passed away in the

year 2012 during service and the petitioner applied in the year 2021 within the policy terms, which application was processed and later-on declined vide office order dated 22-04-2022 on erroneous premises, compelling the petitioner to file this petition on 13-12-2023. The respondents have failed and neglected to look into the matter in its true perspective and violated the command of the Constitution and law; therefore, this petition is liable to be allowed along with the pending application(s) with direction to the Chief Secretary Government of Sindh and respondents to take into consideration the verdict of the Supreme Court on the subject issues as well as keeping in view the Rule 11-A of Sindh Civil Servants (Appointment, Promotion, and Transfer) Rules, 1974, where after if the petitioner is found eligible in all respect for appointment against the quota reserved for deceased Civil Servant, he shall be accommodated in any suitable ministerial post by allowing him to complete all legal and codal formalities as required under the law and the relevant rule, procedure, and policy.

Let notice be issued to the Chief Secretary Sindh, Government of Sindh, Inspector General of Prisons and Correction Service Karachi, along with a copy of this order for its compliance in letter and spirit within 30 days.

**Judge**

**Judge**